

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CARL E. AKELEY,)	
)	
)	
Plaintiff/Petitioner,)	Civil No.
)	10-40180-FDS
v.)	
)	
COMMONWEALTH OF)	
MASSACHUSETTS, ET AL.,)	
)	
Defendants/Respondents.)	
)	

ORDER ADOPTING REPORT AND RECOMMENDATION

SAYLOR, J.

On September 10, 2010, Plaintiff/Petitioner Carl E. Akeley, a pretrial detainee at the Worcester County Jail and House of Correction in West Boylston, Massachusetts, filed a self-prepared habeas petition, also intended to be filed as a new civil action as well as a removal of his criminal case in the Uxbridge District Court to this Court.

On September 30, 2010, Magistrate Judge Hillman issued a Report and Recommendation (Docket No. 5) in which he recommended that Akeley's Motion for Leave to Proceed *in forma pauperis* (Docket No. 4) be denied. He also recommended that Akeley's request for removal of his state criminal case be denied, and that the matter remanded to the Uxbridge District Court. Finally, Magistrate Judge Hillman recommended that, to the extent that Akeley sought to institute a new civil action, the Court should abstain from review of his claims and administratively dismiss those claims without prejudice to renew in a separate civil action upon the filing of a complaint and upon payment of the civil action filing fee or an application to waive the filing fee along with his certified prison account statement, in accordance with 28 U.S.C. § 1915 (the *in forma*

pauperis statute).

To date, Akeley has not filed any objections to the Report and Recommendation, and the time period for doing so has expired.

Upon review of Magistrate Judge Hillman's comprehensive Report and Recommendation, this Court hereby ADOPTS the recommendation in its entirety.

Accordingly, it is hereby ORDERED that:

1. Petitioner/Plaintiff Akeley's Motion for Leave to Proceed *in forma pauperis* (Docket No. 4) is DENIED;
2. To the extent that Petitioner/Plaintiff Akeley seeks to remove his state criminal case to this Court, the request is DENIED and his state criminal case is REMANDED to the Uxbridge District Court;
3. To the extent that Petitioner/Plaintiff Akeley seeks to institute a new civil action, the Court abstains from review of such claims and his claims are ADMINISTRATIVELY DISMISSED without prejudice to renew in a separate civil action upon the filing of a complaint in accordance with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure, and upon payment of the civil action filing fee, or an application to proceed *in forma pauperis* accompanied by his certified prison account statement for the six-month period preceding the filing of any new complaint.

So Ordered.

Dated: November 30, 2010

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge